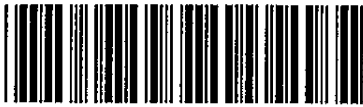


USDC SCAN INDEX SHEET



ADAMS

GENERAL DYNAMICS

MS 8/12/97 11:18

3:97-CV-00616

23

APP.

UNITED STATES DISTRICT COURT
Southern District of California

Edward J. Schwartz Federal Building
880 Front Street Suite 4290
San Diego, California
92101-8900

Roberta Westdal
Clerk

Phone: (619) 557-6368

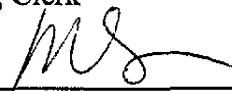
To: Clerk, U.S. Court of Appeals
P.O. Box 193939
San Francisco, CA 94119-3939

Re: USCA No.:
USDC No.: 97cv0616-E(AJB)
ADAMS VS GENERAL DYNAMICS CORP
Clerk, U.S. Court of Appeals enclosed herewith you will please find:

- ☒ Copy of the Notice of Appeal. ☒ Docket Entries.
- ☒ Case Information/Docket Fee Payment Notification Form.
- ☐ Order for Time Schedule. (Criminal)
- ☐ Original Clerk's Record in ____ set(s) of ____ volume(s).
- ☐ Reporter's transcripts in ____ set(s) of ____ volume(s).
- ☐ Clerk's supplemental record in ____ set of ____ volume(s).
- ☐ Exhibits in ____ envelope(s) ____ box(es) ____ folder(s).
- ☒ Judgment/Order ☐ F/P Order
- ☐ CJA Form 20 **OR** ☐ Minute Order
- ☐ Certificate of Record ☐ Mandate Return
- ☐ Amended docket fee notification form.
- ☒ Please acknowledge on the enclosed copy of this transmittal.

Roberta Westdal, Clerk

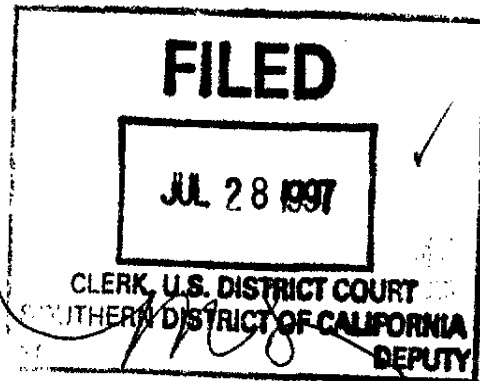
Date: August 12, 1997

By: 
M. Stottlemeyer, Deputy Clerk

ORIGINAL

1 **MONAGHAN & WARREN**
 2 **BRIAN D. MONAGHAN**
 State Bar No. 48354
 3 **MICHAEL A. CONGER**
 State Bar No. 147882
 4 1450 Front Street
 San Diego, CA 92101
 (619) 231-0059

6 Attorneys for all Plaintiffs



7
 8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 RICHARD D. ADAMS, MELANIE ARGO,)
 MICHAEL L. BAFFONE, PHILIP P.)
 11 BALISTRERI, ROBERT J. BARRY, DONALD)
 BATES, DIANE BEDESSEM, GEORGE R. BELL,)
 12 STEVE BIRMINGHAM, JAMES VICTOR)
 BOWER, ROBIN DALE BOYD, JUAN DANIEL)
 13 BROOKS, PAUL Q. CHAU SR., JAMES R.)
 CLAUSEN, GREGORY M. COULTER,)
 14 CARLOS F. CRUZ, ROBERT J. DABELOW JR.,)
 ALBERTA DANISH, ROBERT G. DANZL,)
 15 WAYNE F. DAVISON, CLAIRE DELUCA,)
 RICHARD DELUCA, ARTHUR L. DILLEY,)
 16 Z. LYNNETTE DOHERTY, GARY R. DRAY,)
 PATRICIA L. DRIESLEIN, SERGIO ESPINOZA,)
 17 JOSEPH H. EVOLA, MARK P. FERGUSON,)
 IRENE ALISEA-FRETZ, RICCI FRETZ,)
 18 HECTOR J. GARCIA, KATHLEEN GARCIA,)
 ALINDA M. GIANIRACUSA, BILL GIFFORD,)
 19 MICHAEL J. GIORGETTA, JIM GRECO,)
 TERRENCE G. GREEN, JANE GREGORY,)
 20 GENNARO GUASTAFIERRO, ALFRED M.)
 GUERRA, EDMUND GUERRERO, NEAL C.)
 21 HAAS, JAY P. HAESE, DAVID W. HALLAS,)
 ROBERT HANSEN, BEV HARMAN, LEE A.)
 22 HARPER, ROBERT J. HENETZ, RAYMOND)
 HERRERA, ROSIE HICKS, DENNIS J.)
 23 HONEYCUTT, DAVID R. JACKSON,)
 DENNIS H. JACKSON, ADOLFO P.)
 24 JARAMILLO, CORNELIUS (HENRY) JORDAN,)
 DONALD KOLESAR, DONNA L. LONG,)
 25 CHRISTOPHER LORE, VALERIE LUJAN,)
 GIOVANNI MORETTA, DENNIS MOORE,)
 26 TIMOTHY S. MOULD, DAVE G. MOYER,)
 DONALD H. NAISH, VICKI D. NAISH, DEWEY)
 27 G. NELSON, JOHN R. NEWMAN, RICHARD A.)
 OSWALD, MICHAEL PLESE, ROBERT B.)
 28 PORTER, FELICITAS QUITANIA, RENARD B.)

CASE NO. 97-0616E(AJB)

NOTICE OF APPEAL

CLMS

23

1 REID, TIMOTHY RICHARDSON, NORMA)
 2 RICHMAN, RAYMOND ROBERTS, JOHN)
 3 ROBOTKA, RALPH RUBIO, DOMINGO)
 4 SANCHEZ, BERYL G. SCOTT, DONNA L.)
 5 SHUFFLER, PETER A. SHURKO, JACK)
 6 SINNOTT, PRINTES L. SMITH, ROBERT A.)
 7 SMITH, RICHARD C. SMITH, GLENN)
 8 SPANGLER, RICHARD STURTZ, ERIC H.)
 9 TAUBENBERGER, JANE E. TIERNEY,)
 10 KATHLEEN TRAVIS, DIEGO TREVINO, KENT)
 11 VIAN, RONALD E. WALTERS, FRANK D.)
 12 WELLER, KENNETH WILSON, REBECCA D.)
 13 WILSON, JOHN H. WINES, STEVE WINTERS,)
 14 DAVID J. WYDYSH,)

15 Plaintiffs,

16 v.

17 GENERAL DYNAMICS CORPORATION, and)
 18 DOES 1 through 50, inclusive,)

19 Defendants.

20 **NOTICE IS HEREBY GIVEN** that plaintiffs above named, hereby appeal to the United
 21 States Court of Appeals for the Ninth Circuit from the order granting defendant General Dynamics
 22 Corporation's motion to stay all proceedings until final resolution of state court case entered in this
 23 action on the 26th day of June, 1997, by the Honorable William B. Enright.

24 DATED: July 25, 1997

Respectfully submitted,

MONAGHAN & WARREN

By:



Michael A. Conger
 Attorneys for Plaintiffs

ORIGINAL

MONAGHAN & WARREN**BRIAN D. MONAGHAN**

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MICHAEL A. CONGER

State Bar No. 147882

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Attorney for DAVISON, H. GARCIA, K. GARCIA,
HONEYCUTT and MOORE**FILED**

JUL 28 1997

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTYUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RICHARD D. ADAMS, et al.,

Plaintiffs,

vs.

GENERAL DYNAMICS
CORPORATION, et al.,

Defendants.

CASE NO. 97-0616 E(AJB)

DECLARATION OF
SERVICEDate Served: July 28, 1997
Persons Served:Lisa T. Schroeder, Esquire
Mazzarella, Dunwoody, Wilson
& Petty
550 West "C" Street, Suite 1050
San Diego, CA 92101

-and-

Richard T. Franch, Esquire
Jenner & Block
One IBM Plaza
Chicago, IL 60611

I, the undersigned declare under penalty of perjury that I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action; my business address is 1450 Front Street, San Diego, California 92101.

On July 28, 1997, I served the foregoing document(s):

1. NOTICE OF APPEAL; and

2. CIVIL APPEALS DOCKETING STATEMENT;

by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee respectively as follows:

Richard T. Franch, Esquire
Jenner & Block
One IBM Plaza
Chicago, IL 60611
(312) 222-9350
(312) 527-0484 (Fax)
(Via Fax and U.S. Mail)

Attorneys for Defendants
General Dynamics Corporation

Lisa T. Schroeder, Esquire
Mazzarella, Dunwoody, Wilson
& Petty
550 West "C" Street, Suite 1050
San Diego, CA 92101
(619) 236-9600
(619) 236-9669 (Fax)
(Via Personal Service)

Attorneys for Defendants
General Dynamics Corporation

XX I then sealed each envelope and, with the postage thereon fully prepaid, deposited each in the United States mail at San Diego, California, on July 28, 1997.

XX I personally delivered such documents by hand to the offices of Lisa T. Schroeder, Esquire, Mazzarella, Dunwoody, Wilson & Petty on July 28, 1997.

XX I served such documents via facsimile transmission to the offices of Richard T. Franch, Esquire, Jenner & Block. The transmission was reported as complete and without error on July 28, 1997, at 2:48 p.m. from the Fax machine located at (619) 231-7651. The attached transmission report was properly issued by the facsimile machine.

 I personally placed the documents in a Federal Express FedEx Letter envelope on July 28, 1997, and caused it to be sent via FedEx Priority Overnight service for delivery on _____, 1996, before 10:30 a.m.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 28, 1997, at San Diego, California.

A handwritten signature in cursive script, reading "Patricia B. Messer". The signature is written in dark ink and is positioned above a horizontal line.

Patricia B. Messer

TRANSACTION REPORT

JUL-28-97 MON 14:48

SEND

#	DATE	S. T.	NAME	TIME	PGS	NOTE	DP
01	JUL-28	14:39	13125270484	8' 37"	14	OK	

MONAGHAN & WARREN
ATTORNEYS AT LAW

Michael A. Conger

1450 FRONT STREET
SAN DIEGO, CALIFORNIA 92101

FAX (619) 231-7651

SPECIALIZING IN CIVIL LITIGATION
PERSONAL INJURY
BUSINESS LITIGATION
EMPLOYMENT TERMINATION/DISCRIMINATION
GOVERNMENT CONTRACT FRAUD

Fax Coversheet

To: Richard T. Franch, Esquire
Jenner & Block

Fax No. (312) 527-0484

From: Michael A. Conger, Esquire

Case: Argo v. General Dynamics - 300.1

Date: July 28, 1997

You should receive 14 page(s) including this cover sheet

Requested Action:

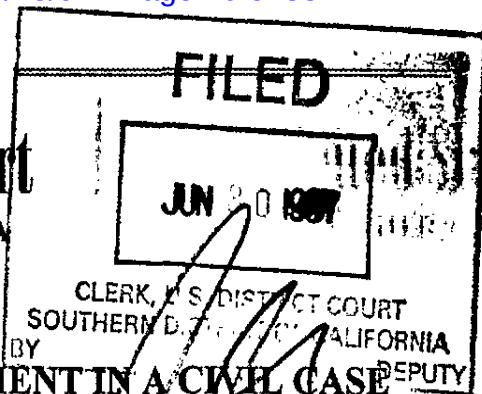
This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the United States Postal Service. Thank you.

If there are any problems with this transmission, please call (619) 231-0059
Fax (619) 231-7651

AO 450 Judgment in a Civil Case

United States
SOUTHERN DISTRICT OF CALIFORNIA

United States District Court
SOUTHERN DISTRICT OF CALIFORNIA



RICHARD D. ADAMS, et al.

V.

GENERAL DYNAMICS CORPORATION

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 97-cv-0616-E(AJB)

☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED the defendant's motion for stay is **granted** and the case is administratively closed.

June 30, 1997

Date

Roberta Westdal

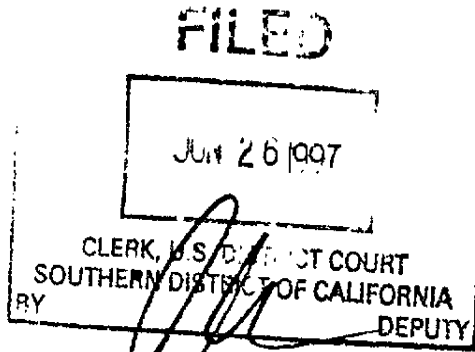
Clerk

A. Ramos

(By) Deputy Clerk

ENTERED ON June 30, 1997

5



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RICHARD D. ADAMS, et al.,)	Civil No. 97-0616-E(AJB)
)	
Plaintiff,)	
)	
v.)	MEMORANDUM DECISION
)	<u>AND ORDER</u>
GENERAL DYNAMICS CORPORATION,)	
)	
Defendant.)	

BACKGROUND

This motion concerns three lawsuits by employees of General Dynamics.

(1) Sena v. General Dynamics: In 1991, plaintiffs, who were employees at the Convair Division of General Dynamics, filed suit in federal court seeking unpaid overtime wages under federal and state labor laws. In 1993, the parties sent out notices to potential plaintiffs advising them of their right to join the lawsuit and how to contact the plaintiff's attorney. Hundreds of Convair workers joined the suit, and the parties settled the action as to a class of workers covering the FLSA claims between January 1990 to August 1991. Judge Brewster approved the settlement in 1995.

(2) Argo v. General Dynamics: In April 1995, one hundred employees of the Convair Division who had not been members of the

1 Sena federal suit, filed suit in state court alleging civil rights
2 and fraud based claims against General Dynamics. The Argo plain-
3 tiffs received the notice of the right to join the Sena federal suit
4 in 1993, but they alleged that General Dynamics wrongfully prevented
5 them from joining the suit by threatening them that their careers
6 would be jeopardized if they joined the lawsuit. Plaintiffs further
7 alleged that General Dynamics promised them that they had long
8 careers ahead of them in an effort to dissuade them from joining
9 Sena, but this was a lie because General Dynamics concealed that it
10 had already decided to close the plant.

11 In pretrial motions, Judge Di Figlia summarily adjudicated the
12 civil rights cause of action in General Dynamics' favor. The Argo
13 plaintiffs went to trial on the second amended complaint's three
14 fraud-based claims. Shortly before trial, General Dynamics brought
15 an in limine motion to determine whether the plaintiffs' damages
16 would be limited to what they would have recovered had they partic-
17 ipated in the Sena settlement or the difference between the wages
18 below FLSA standards and the value had the fraudulent representa-
19 tions been true. Plaintiffs argued for the right to seek the larger
20 damages on the ground that the state complaint already included
21 claims for wage and career fraud, as well as the interference with
22 the Sena settlement. But the state court limited the damages to the
23 Sena settlement because it concluded that the second amended
24 complaint did not plead the wage and career fraud claims, and that
25 the new theories would require additional discovery. The state
26 court agreed with General Dynamics that "what the Complaint alleges
27 . . . is nothing more than the defendants duped plaintiffs into not
28 joining Sena by representing that they had viable careers."

1 Defendant's Exhibit F, page 3. As an alternative ruling, the state
2 court opined that the wage claim was preempted by FLSA.

3 In response, plaintiffs sought leave to file a third amended
4 complaint that expressly added a claim for unpaid overtime for the
5 years between 1985 and 1996. The state court denied the motion
6 because (1) to the extent that the proposed amendment added claims
7 that the state court had ruled preempted, the amendment would be
8 futile; and (2) even if the proposed amendment included un-preempted
9 claims, the motion was untimely, would require additional discovery,
10 and would delay the trial (which was one month away in March 1997).

11 In May 1997, the jury returned a verdict in favor of plaintiffs
12 on the fraud claims. At trial, the jury awarded 97 of the plain-
13 tiffs roughly \$20,000 each in compensatory damages and \$1 million
14 each in punitive damages, for a total verdict exceeding \$100
15 million. The state case is still pending as to post-judgment
16 motions and may be appealed.

17 (3) Adams v. General Dynamics: After the state court
18 denied plaintiffs' motion to file a third amended complaint,
19 plaintiffs filed a new complaint in state court entitled Adams.
20 It alleged four fraud-related claims (false promise, intentional
21 misrepresentation, negligent misrepresentation, and concealment).
22 The Adams complaint is based on "wage fraud" of lost wages under
23 California and other laws, and "career fraud" in the lies about
24 their long-term employment at the Convair Division. The Adams
25 complaint does not mention the Sena lawsuit, rather, it is
26 based on the much broader time frame of 1985 to 1996. General
27 Dynamics removed Adams to federal court on diversity of citizenship
28 grounds.

1 General Dynamics moves to stay Adams pending the final
2 resolution of Argo.

3 DISCUSSION

4 A federal court must give the same preclusive effect to a state
5 court judgment that a state court would give it. Miller v. County
6 of Santa Cruz, 39 F.3d 1030, 1032 (9th Cir. 1994), cert. denied,
7 115 S. Ct. 2613 (1995). Under California law, prior litigation will
8 bar subsequent litigation when the cases concern the same primary
9 right, even if the legal theory is different. Id. at 1034. "If the
10 same primary right is involved in two actions, judgment in the first
11 bars consideration not only of matters actually raised in the first
12 suit but also all matters which could have been raised." Eichman v.
13 Fotomat Corp., 147 Cal. App. 3d 1170, 1175 (1983). Under California
14 law, a decision is not final until the appeal is complete. Cal.
15 Civ. Proc. Code § 1049; Sandoval v. Superior Court of Kings County,
16 140 Cal. App. 3d 932 (1983).

17 General Dynamics seeks to stay Adams because once the judgment
18 is final in Argo, it can be given preclusive effect and the Adams
19 case will be barred by res judicata or collateral estoppel. Until
20 then, General Dynamics argues that the court should defer consider-
21 ation to save judicial resources, eliminate the risk of inconsistent
22 judgments, and prevent vexatious litigation.

23 The court agrees that a stay is appropriate. The Ninth Circuit
24 has approved the use of a stay, when a pending state court action
25 may result in res judicata. Ollie v. Riggan, 848 F.2d 1016, 1017
26 (9th Cir. 1988) (per curiam). Here, it appears that the Adams
27 complaint seeks relief that could have been sought in the Argo state
28 case -- though plaintiffs lost the opportunity by waiting until the

1 eve of trial to try to amend the state complaint to allege the wage
2 and career fraud claims. Thibodeau v. Crum, 4 Cal. App. 4th 749,
3 755 (1992) ("A party cannot by negligence or design withhold issues
4 and litigate them in consecutive actions."); see Gamble v. General
5 Foods Corp., 229 Cal. App. 3d 893, 902 (1991); but see Bleeck v.
6 State Bd. of Optometry, 18 Cal. App. 3d 415, 428-30 (1971) (res
7 judicata does not bar a claim that state court expressly determined
8 should be tried as a separate suit). A comparison of Argo and Adams
9 shows that the parties are the same; the underlying facts concerning
10 the fraud, misrepresentations, and broken promises are intertwined;
11 the alleged fraud continued over several years; and the subject
12 matter concerns the right of the plaintiffs to a legal wage. In
13 such circumstances, and in the event that it prevails on its affirm-
14 ative defense of res judicata, Walton v. City of Red Bluff, 2 Cal.
15 App. 4th 117, 131 (1992), a stay will prevent the prejudice of
16 subjecting General Dynamics to duplicate litigation. At the same
17 time, a stay during the conclusion of the state appellate process
18 will not prejudice plaintiffs, as they intend to defend their
19 verdict in Argo, and may appeal the denial of their motion for leave
20 to amend.

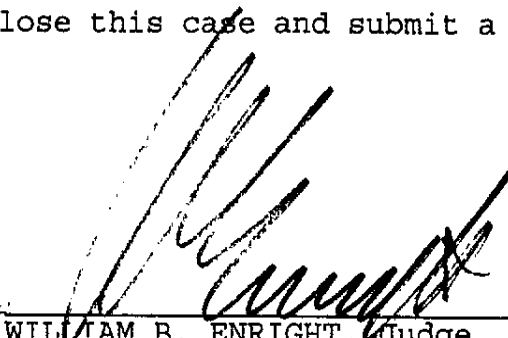
21 Finally, because this court may not proceed with this case in
22 the normal course, and in the interest of judicial efficiency, the
23 court finds this civil case should be administratively closed until
24 the Argo decision is final. Upon notice by either party, the court
25 may reopen this civil case.

26 CONCLUSION

27 Upon due consideration of the parties' memoranda and exhibits,
28 the arguments advanced at hearing, and for the reasons set forth

1 above, the court hereby grants defendant's motion to stay [# 5].
2 The Clerk of the Court shall close this case and submit a JS-6 form
3 to the Administrative Office.

4 DATED: June 25, 1997.

5
6 
7 WILLIAM B. ENRIGHT, Judge
8 United States District Court
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28 Copies to:

Lead Attorney for all parties of record

CASE INFORMATION/DOCKETING FEE NOTIFICATION

TO: Clerk, U.S. Court of Appeals **DATE:** August 12, 1997
FROM: U.S. District Court, Southern District of California
SUBJECT: New Appeals Case Information & Docket Fee Notification

Complete Title: RICHARD D. ADAMS, MELANIE AGRO, MICHAEL L. BAFFONE, PHILIP P. BALISTRERI, ROBERT J. BARRY, DONALD BATES, DIANE BEDESSEM, GEORGE R. BELL, STEVE BIRMINGHAM, JAMES VICTOR BOWER, ROBIN DALE BOYD, JUAN DANIEL BROOKS, PAUL Q. CHAU SR., JAMES R. CLAUSEN, GREGORY M. COULTER, CARLOS F. CRUZ, ROBERT J. DABELOW JR., ALBERTA DANISH, ROBERT G. DANZL, WAYNE F. DAVISON, CLAIRE DELUCA, RICHARD DELUCA, ARTHUR L. DILLEY, Z. LYNNETTE DOHERTY, GARY R. DRAY, PATRICIA L. DRIESLEIN, SERGIO ESPINOZA, JOSEPH H. EVOLA, MARK P. FERGUSON, IRENE ALISEA-FRETZ, RICCI FRETZ, HECTOR J. GARCIA, KATHLEEN GARCIA, ALINDA M. GIAN SIRACUSA, BILL GIFFORD, MICHAEL J. GIORGETTA, JIM GRECO, TERRENCE G. GREEN, JANE GREGORY, GENNARO GUASTAFIERRO, ALFRED M. GUERRA, EDMUND GUERRERO, NEAL C. HAAS, JAY P. HAESE, DAVID W. HALLAS, ROBERT HANSEN, BEV HARMAN, LEE A. HARPER, ROBERT J. HENETZ, RAYMOND HERRERA, ROSIE HICKS, DENNIS J. HONEYCUTT, DAVID R. JACKSON, DENNIS H. JACKSON, ADOLFO P. JARAMILLO, CORNELIUS (HENRY) JORDAN, DONALD KOLESAR, DONNA L. LONG, CHRISTOPHER LORE, VALERIE LUJAN, GIOVANNI MORETTA, DENNIS MOORE, TIMOTHY S. MOULD, DAVE G. MOYER, DONALD H. NAISH, VICKI D. NAISH, DEWEY G. NELSON, JOHN R. NEWMAN, RICHARD A. OSWALD, MICHAEL PLESE, ROBERT B. PORTER, FELICITAS QUITANIA, RENARD B. REID, TIMOTHY RICHARDSON, NORMA, RICHMAN, RAYMOND ROBERTS, JOHN ROBUTKA, RALPH RUBIO, DOMINGO SANCHEZ, BERYL G. SCOTT, DONNA L. SHUFFLER, PETER A. SHURKO, JACK SINNTT, PRINTES L. SMITH, ROBERT A. SMITH, RICHARD C. SMITH, GLENN SPANGLER, RICHARD STURTZ, ERIC H. TAUBENGERGER, JANE E. TIERNEY, KATHLEEN TRAVIS, DIEGO TREVINO, KENT VIAN, RONALD E. WALTERS, FRANK D. WILSON, JOHN H. WINES, STEVE WINTERS, DAVID J. WYDYSH VS GENERAL DYNAMICS CORP AND DOES 1 THROUGH 50, INCLUSIVE

U.S.D.C. No. 97cv0616-E(AJB) U.S.D.C. JUDGE WILLIAM B. ENRIGHT

Type: civil

Complaint Filed: 04/08/97

Appealed Order Entered: 06/30/97

Notice of Appeal Filed: 07/28/97

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(619)236-9600

Counsel: (X) RETAINED () APPOINTED () PRO PER
Appointed by:

*** DEFENDANT INFORMATION ***

Address: Custody:
Bail:
F/P. NO Counsel Waived:
No. days of trial: NONE
Court Reporter: JOANNE MILLER

*** DOCKET FEE NOTIFICATION ***

Docket Fee: \$105.00 Paid: X Not Paid: _____
F/P No Charge: _____
USA/GOV'T APPEAL: no (Fee Waived)
Was Appellant or Appellee Granted F/P Status? Yes No X
(If Yes, Show Date _____ and Attach Copy of Order.)
Was F/P Status Revoked? Date:
Was F/P Status Limited in Some Fashion?
Companion Cases, If Any: NONE
Form Completed in the U.S. District Court By: M. Stottlemyer

*** AMENDED FEE INFORMATION ***

Paid: F/P: Date:
District Court Clerk By:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Copy to Appellant(s) and Appellee(s) of the following items:

- (X) Transmittal to U.S.C.A. (Appellant and Appellee)
- (X) Case Information/Docketing Fee Notification Form. (Appellant Only)
- (X) Notice of Appeal (All parties on the service list)
- (X) Docket Entries (Appellant and Appellee)
- (X) Designation of Reporter's Transcript and Ordering Form. (Appellant Only)
- () Order for Time Schedule. (Appellant and Appellee) (Criminal Only)
- () F/P Order () CJA Form 20 () Minute Order
- () Certificate of Record
- () Other:

Service List:

- (X) U.S.D.C. Judge
- () U.S. Probation
- (X) Court Reporter

NAME AND ADDRESSES OF ATTORNEY OF RECORD

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SAN DIEGO CA 92101

For Appellee:
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ONE IBM PLAZA STE 4600
CHICAGO IL 60611-3608

LISA ROBIN SCHROEDER
550 WEST C ST STE 1050
SAN DIEGO CA 92101-3532

I hereby certify that the documents listed were transmitted to the parties listed in the above service list on this day.

Dated: August 12, 1997


ROBERTA WESTDAL, Clerk

TERMED APPEAL

U.S. District Court
Southern District of California (San Diego)

CIVIL DOCKET FOR CASE #: 97-CV-616

Adams, et al v. General Dynamics, et al	Filed: 04/08/97
Assigned to: Judge William B. Enright	Jury demand: Plaintiff
Referred to: Magistrate Anthony J. Battaglia	
Demand: \$0,000	Nature of Suit: 710
Lead Docket: None	Jurisdiction: Federal Question
Dkt # in San Diego Superior : is 708719	

Cause: 29:201 Fair Labor Standards Act

RICHARD D ADAMS
plaintiff

Brian D Monaghan
(619)231-7651
[COR LD NTC]
Monaghan and Warren
1450 Front Street
San Diego, CA 92101
231-0059

MELANIE ARGO
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

MICHAEL L BAFFONE, SR
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

PHILIP P BALISTRERI
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

ROBERT J BARRY
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DONALD R BATES
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DIANE BEDESSEM
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

INTERNAL USE ONLY: Proceedings include all events.
3:97cv616 Adams, et al v. General Dynamics, et al

TERMED APPEAL

GEORGE R BELL
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

STEVE BIRMINGHAM
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

JAMES VICTOR BOWER
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

ROBIN DALE BOYD
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

JUAN DANIEL BROOKS
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

PAUL Q CHAU, SR
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

JAMES R CLAUSEN
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

GREGORY M COULTER
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

CARLOS F CRUZ
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

ROBERT J DABELOW, JR
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

ALBERTA DANISH
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

INTERNAL USE ONLY: Proceedings include all events.
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TERMED APPEAL

ROBERT G DANZL
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

CLAIRE DELUCA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

RICHARD DELUCA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

ARTHUR L DILLEY
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

Z LYNNETTE DOHERTY
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

GARY R DRAY
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

PATRICIA L DRIESLEIN
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

SERGIO ESPINOZA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

JOSEPH H EVOLA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

MARK P FERGUSON
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

IRENE ALISEA-FRETZ
plaintiff

Brian D Monaghan
(See above)

INTERNAL USE ONLY: Proceedings include all events.
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TERMED APPEAL

[COR LD NTC]

RICCI FRETZ
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

ALINDA M GIAN SIRACUSA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

BILL GIFFORD
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

MICHAEL J GIORGETTA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

JIM GRECO
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

TERRENCE G GREEN
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

JANE GREGORY
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

GENNARO GUSTAFIERRO
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

ALFRED M GUERRA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

EDMUND GUERRERO
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

NEAL C HAAS

Brian D Monaghan

INTERNAL USE ONLY: Proceedings include all events.
3:97cv616 Adams, et al v. General Dynamics, et al

TERMED APPEAL

plaintiff	(See above) [COR LD NTC]
JAY P HAESE plaintiff	Brian D Monaghan (See above) [COR LD NTC]
DAVID W HALLAS plaintiff	Brian D Monaghan (See above) [COR LD NTC]
ROBERT D HANSEN plaintiff	Brian D Monaghan (See above) [COR LD NTC]
BEV HARMAN plaintiff	Brian D Monaghan (See above) [COR LD NTC]
LEE A HARPER plaintiff	Brian D Monaghan (See above) [COR LD NTC]
ROBERT J HENETZ plaintiff	Brian D Monaghan (See above) [COR LD NTC]
RAYMOND HERRERA plaintiff	Brian D Monaghan (See above) [COR LD NTC]
ROSIE HICKS plaintiff	Brian D Monaghan (See above) [COR LD NTC]
DAVID R JACKSON plaintiff	Brian D Monaghan (See above) [COR LD NTC]
DENNIS H JACKSON plaintiff	Brian D Monaghan (See above) [COR LD NTC]

INTERNAL USE ONLY: Proceedings include all events.
3:97cv616 Adams, et al v. General Dynamics, et al

TERMED APPEAL

ADOLFO P JARAMILLO
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

CORNELIUS JORDAN
aka
Henry, -
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DONALD KOLESAR
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DONNA L LONG
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

CHRISTOPHER LORE
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

LUJAN VALERIE
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

JAMES MCBRIDE
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

GIOVANNI MORETTA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

TIMOTHY S MOULD
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DAVE G MOYER
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DONALD H NAISH
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

INTERNAL USE ONLY: Proceedings include all events.
3:97cv616 Adams, et al v. General Dynamics, et al

TERMED APPEAL

VICKI D NAISH
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DEWEY G NELSON
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

JOHN R NEWMAN
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

RICHARD A OSWALD
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

MICHAEL PLESE
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

ROBERT B PORTER
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

QUITANIA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

RENARD B REID
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

TIMOTHY P RICHARDSON
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

NORMA RICHMAN
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

RAYMOND ROBERTS
plaintiff

Brian D Monaghan
(See above)

INTERNAL USE ONLY: Proceedings include all events.
3:97cv616 Adams, et al v. General Dynamics, et al

TERMED APPEAL

[COR LD NTC]

JOHN ROBUTKA
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

RALPH RUBIO
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DOMINGO SANCHEZ
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

BERYL G SCOTT
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DONNAL L SHUFFLER
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

PETER A SHURKO
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

JACK SINNOTT
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

PRINTES L SMITH
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

ROBERT A SMITH
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

RICHARD C SMITH
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

GLENN SPANGLER

Brian D Monaghan

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TERMED APPEAL

plaintiff (See above)
[COR LD NTC]

RICHARD STURTZ
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

ERIC H TAUBENBERGER
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

JANE E TIERNEY
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

KATHLEEN TRAVIS
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

DIEGO TREVINO
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

KENT VIAN
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

RONALD E WALTERS
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

FRANK D WELLER
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

KENNETH WILSON, -
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

REBECCA D WILSON
plaintiff Brian D Monaghan
(See above)
[COR LD NTC]

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3:97cv616 Adams, et al v. General Dynamics, et al

TERMED APPEAL

JOHN H WINES
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

STEVE M WINTERS
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

DAVID J WYDYSH
plaintiff

Brian D Monaghan
(See above)
[COR LD NTC]

v.

GENERAL DYNAMICS CORPORATION,
-
defendant

Richard T Franch
(312) 527-0484
[COR LD NTC]
Royce R Bedward
[COR LD NTC]
Jenner and Block
One IBM Plaza
Suite 4600
Chicago, IL 60611-3608
(312) 222-9350

Lisa Robin Schroeder
(619) 236-9669
[COR LD NTC]
Mazzarella Dunwoody Wilson and
Petty
550 West C Street
Suite 1050
San Diego, CA 92101-3532
236-9600

DOES, 1 through 50, inclusive
defendant

INTERNAL USE ONLY: Proceedings include all events.
3:97cv616 Adams, et al v. General Dynamics, et al

TERMED APPEAL

Richard D Adams; Melanie Argo; Michael L Baffone, SR; Philip P Balistreri; Robert J Barry; Donald R Bates; Diane Bedessem; George R Bell; Steve Birmingham; James Victor Bower; Robin Dale Boyd; Juan Daniel Brooks; Paul Q Chau, SR; James R Clausen; Gregory M Coulter; Carlos F Cruz; Robert J Dabelow, JR; Alberta Danish; Robert G Danzl; Claire DeLuca; Richard DeLuca; Arthur L Dilley; Z Lynnette Doherty; Gary R Dray; Patricia L Drieslein; Sergio Espinoza; Joseph H Evola; Mark P Ferguson; Irene Alisea-Fretz; Ricci Fretz; Alinda M Giansiracusa; Bill Gifford; Michael J Giorgetta; Jim Greco; Terrence G Green; Jane Gregory; Gennaro Gustafierro; Alfred M Guerra; Edmund Guerrero; Neal C Haas; Jay P Haese; David W Hallas; Robert D Hansen; Bev Harman; Lee A Harper; Robert J Henetz; Raymond Herrera; Rosie Hicks; David R Jackson; Dennis H Jackson; Adolfo P Jaramillo; Cornelius Jordan, also known as Henry Donald Kolesar; Donna L Long; Christopher Lore; Lujan Valerie; James McBride; Giovanni Moretta; Timothy S Mould; Dave G Moyer; Donald H Naish; Vicki D Naish; Dewey G Nelson; John R Newman; Richard A Oswald; Michael Plese; Robert B Porter; Quitania; Renard B Reid; Timothy P Richardson; Norma Richman; Raymond Roberts; John Robutka; Ralph Rubio; Domingo Sanchez; Beryl G Scott; Donnal L Shuffler; Peter A Shurko; Jack Sinnott; Printes L Smith; Robert A Smith; Richard C Smith; Glenn Spangler; Richard Sturtz; Eric H Taubenberger; Jane E Tierney; Kathleen Travis; Diego Trevino; Kent Vian; Ronald E Walters; Frank D Weller; Kenneth Wilson, -; Rebecca D Wilson; John H Wines; Steve M Winters; David J Wydysh

plaintiff

v.

General Dynamics Corporation, -; DOES, 1 through 50, inclusive

defendant

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TERMED APPEAL

4/8/97 1 Notice of Removal t/w copy of cmp from San Diego Superior Court Case Number: 708719 (to Magistrate Anthony J. Battaglia) Receipt No/Amt of Fee: #29286/\$150.00 (rcm) [Entry date 04/09/97]

4/14/97 2 Demand for jury trial by plaintiffs t/w prf svc (acr) [Entry date 04/16/97]

4/15/97 -- Summons issued (acr) [Entry date 04/21/97]

4/17/97 3 Stipulation and Order by Judge William B. Enright: Answer to complaint by 5/1/97 for General Dynamics (cc: all counsel) (acr) [Entry date 04/21/97]

5/1/97 4 Stipulation and Order by Judge William B. Enright: Answer to complaint extended to 5/12/97 for General Dynamics Corporation (cc: all counsel) (acr) [Entry date 05/02/97]

5/15/97 5 Notice of motion and motion by defendant General Dynamics to stay all proceedings until the final resolution of a pending State Court case [motion(s) referred to Judge William B. Enright] t/w prf svc; motion hrg set 6/23/97 at 10:30 (acr) [Entry date 05/21/97]

5/15/97 6 Memorandum of points and authorities by defendant General Dynamics in support of motion to stay all proceedings until the final resolution of a pending State Court case [5-1] (acr) [Entry date 05/21/97]

5/15/97 7 Declaration of Lisa T. Schroeder by defendant General Dynamics in support of motion to stay all proceedings until the final resolution of a State Court case [5-1] (acr) [Entry date 05/21/97]

5/15/97 8 Notice of lodgment by defendant General Dynamics in support of motion to stay all proceedings until the final resolution of a pending State Court case [5-1] (acr) [Entry date 05/21/97]

5/15/97 9 Notice of lodgment by defendant General Dynamics in support of motion to stay all proceedings until the final resolution of a pending State Court case [5-1] t/w exhibits (acr) [Entry date 05/21/97]

5/20/97 10 Pro Hac Vice approved by Judge William B. Enright on behalf of defendant General Dynamics for Richard T Franch (cc: all counsel) (acr) [Entry date 05/28/97]

5/21/97 11 Minutes: Enter Order by Magistrate Anthony J. Battaglia that the case is removed from Superior Court; no answer on file; No ENE required (acr) [Entry date 05/28/97]

INTERNAL USE ONLY: Proceedings include all events.

TERMED APPEAL

3:97cv616 Adams, et al v. General Dynamics, et al

- 6/6/97 12 Amended notice of lodgment by defendant General Dynamics in support of motion to stay all proceedings until the final resolution of a pending State Court case [5-1] t/w exhibits and prf svc (acr) [Entry date 06/11/97]
- 6/9/97 13 Opposition by plaintiffs to motion to stay all proceedings until the final resolution of a pending State Court case [5-1] t/w prf svc (acr) [Entry date 06/12/97]
- 6/9/97 14 Declaration of Michael A. Conger by plaintiffs in support of opposition to motion to stay all proceedings until the final resolution of a pending state court case [13-1] (acr) [Entry date 06/12/97]
- 6/9/97 15 Notice of lodgment by plaintiffs in support of opposition to motion to stay all proceedings until the final resolution of a pending State Court case [5-1] t/w exhibits (acr) [Entry date 06/12/97]
- 6/9/97 16 Minutes: Enter Order by Magistrate Anthony J. Battaglia that the case is removed from Superior Court; no answer on file; No ENE required (acr) [Entry date 06/12/97]
- 6/16/97 17 Reply memorandum by defendant General Dynamics to opposition to motion to stay all proceedings until the final resolution a pending State Court case [5-1] t/w prf svc (acr) [Entry date 06/18/97]
- 6/16/97 18 Notice of lodgment by defendant General Dynamics of non-published opinions in support of motion to stay all proceedings until the final resolution of a pending State Court case [5-1] t/w exhibits (acr) [Entry date 06/18/97]
- 6/20/97 19 Pro Hac Vice approved by Judge William B. Enright on behalf of defendant General Dynamics for Royce R Bedward (cc:all counsel) (acr) [Entry date 06/23/97]
- 6/23/97 20 Minutes: Enter Order by Judge William B. Enright that the motion to stay all proceedings until the final resolution a pending State Court case [5-1] was held and submitted; Court to issue order; Court Reporter I. Vanbramer (acr) [Entry date 06/25/97]
- 6/26/97 21 Order by Judge William B. Enright granting motion to stay [5-1]; Case is administratively closed (cc: all counsel) (acr) [Entry date 06/30/97]
- 6/30/97 22 Clerks Judgment: Dft's motion to stay is granted and the case is administratively closed; terminating case (cc: all counsel) (acr)

INTERNAL USE ONLY: Proceedings include all events.
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TERMED APPEAL

7/28/97 23 Notice of appeal by plas Richard D Adams, Melanie Argo, Michael L Baffone SR, Philip P Balistreri, Robert J Barry, Donald R Bates, Diane Bedessem, George R Bell, Steve Birmingham, James Victor Bower, Robin Dale Boyd, Juan Daniel Brooks, Paul Q Chau SR, James R Clausen, Gregory M Coulter, Carlos F Cruz, Robert J Dabelow JR, Alberta Danish, Robert G Danzl, Claire DeLuca, Richard DeLuca, Arthur L Dilley, Z Lynnette Doherty, Gary R Dray, Patricia L Drieslein, Sergio Espinoza, Joseph H Evola, Mark P Ferguson, Irene Alisea-Fretz, Ricci Fretz, Alinda M Giansiracusa, Bill Gifford, Michael J Giorgetta, Jim Greco, Terrence G Green, Jane Gregory, Gennaro Gustafierro, Alfred M Guerra, Edmund Guerrero, Neal C Haas, Jay P Haese, David W Hallas, Robert D Hansen, Bev Harman, Lee A Harper, Robert J Henetz, Raymond Herrera, Rosie Hicks, David R Jackson, Dennis H Jackson, Adolfo P Jaramillo, Cornelius Jordan, Donald Kolesar, Donna L Long, Christopher Lore, Lujan Valerie, James McBride, Giovanni Moretta, Timothy S Mould, Dave G Moyer, Donald H Naish, Vicki D Naish, Dewey G Nelson, John R Newman, Richard A Oswald, Michael Plese, Robert B Porter, Quitania, Renard B Reid, Timothy P Richardson, Norma Richman, Raymond Roberts, John Robutka, Ralph Rubio, Domingo Sanchez, Beryl G Scott, Donnal L Shuffler, Peter A Shurko, Jack Sinnott, Printes L Smith, Robert A Smith, Richard C Smith, Glenn Spangler, Richard Sturtz, Eric H Taubenberger, Jane E Tierney, Kathleen Travis, Diego Trevino, Kent Vian, Ronald E Walters, Frank D Weller, Kenneth Wilson, Rebecca D Wilson, John H Wines, Steve M Winters, David J Wydysh from Dist. Court decision [22-2] entered on 06/30/97 Receipt No/Amt of Fee: #031716-A3/\$105 (ms) [Entry date 08/12/97]

8/7/97 24 Transcript Designation and Ordering Form for dates: 6/23/97 [23-1] (ms) [Entry date 08/12/97]

8/12/97 -- Record on Notice of Appeal sent to Circuit Court [23-1] (ms)